

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

RAYMOND CAMPOS,

Petitioner,

No. C 14-4685 PJH (PR)

vs.

ORDER DISMISSING CASE

MARTIN BITER,

Respondent.

Petitioner, a California prisoner, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner was convicted in Monterey County which is in this district, so venue is proper here. See 28 U.S.C. § 2241(d). Petitioner was ordered to show cause why this petition should not be dismissed as unexhausted.

BACKGROUND

A jury convicted petitioner of inflicting great bodily injury during the deliberate attempted murder of a sheriff's deputy. He was sentenced to 34 years in state prison. His conviction was affirmed on appeal. *People v. Campos*, 2012 WL 3996829 (Cal. App. 6 Dist. Sep. 11, 2012).

DISCUSSION

A. Standard of Review

This court may entertain a petition for writ of habeas corpus "in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a); *Rose v. Hodges*, 423 U.S. 19, 21 (1975). Habeas corpus petitions must meet heightened pleading requirements. *McFarland v. Scott*, 512 U.S. 849, 856 (1994). An

1 application for a federal writ of habeas corpus filed by a prisoner who is in state custody
2 pursuant to a judgment of a state court must “specify all the grounds for relief available to
3 the petitioner ... [and] state the facts supporting each ground.” Rule 2(c) of the Rules
4 Governing § 2254 Cases, 28 U.S.C. foll. § 2254. “[N]otice’ pleading is not sufficient, for the
5 petition is expected to state facts that point to a ‘real possibility of constitutional error.’”
6 Rule 4 Advisory Committee Notes (quoting *Aubut v. Maine*, 431 F.2d 688, 689 (1st Cir.
7 1970)).

8 **B. Legal Claims**

9 Petitioner’s sole ground for federal habeas relief asserts that his trial counsel was
10 ineffective in the plea bargaining stage pursuant to *Lafler v. Cooper*, 132 S.Ct. 1376 (2012).

11 This claim was not presented on direct appeal. Petitioner stated that state habeas
12 petitions were pending in the superior court, court of appeals, and state supreme court.
13 However, he had only included a petition to the superior court that was dated September
14 17, 2014. A search of the dockets for the court of appeals and state supreme court did not
15 indicate any pending petitions.

16 Before he may challenge either the fact or length of his confinement in a habeas
17 petition in this court, petitioner must present to the California Supreme Court any claims he
18 wishes to raise in this court. See *Rose v. Lundy*, 455 U.S. 509, 522 (1982) (holding every
19 claim raised in federal habeas petition must be exhausted). A petition containing solely
20 unexhausted claims must be dismissed. See *Jiminez v. Rice*, 276 F.3d 478, 481 (9th Cir.
21 2001).

22 Petitioner was ordered to show cause why this case should not be dismissed. He
23 was told to inform the court if the claim was exhausted or if he had filed a petition with the
24 state supreme court and when that petition was filed. The time to respond to the court’s
25 order has passed and petitioner has not filed a response or otherwise communicated with
26 the court. The case is dismissed without prejudice but petitioner may file a new case once
27 the claim has been properly exhausted.

CONCLUSION

The petition is **DISMISSED** for the reasons set forth above. Because reasonable jurists would not find the result here debatable, a certificate of appealability ("COA") is **DENIED**. See *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000) (standard for COA).

IT IS SO ORDERED.

Dated: December 22, 2014.



PHYLLIS J. HAMILTON
United States District Judge

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